



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGIONS 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



359431

**APR 05 2010**

REPLY TO THE ATTENTION OF:

**SE-5J**

**VIA ELECTRONIC MAIL ([KEITH@SHARPCOMPANIES.COM](mailto:KEITH@SHARPCOMPANIES.COM)) AND  
UNITED PARCEL SERVICE EXPRESS**

Mr. James Keith Sharp  
Escalade Avenue LLC  
2310 Whitesburg Dr., Suite 7  
Huntsville, Alabama 35801

Re: General Notice of Potential Liability and Request for Information  
501 Northridge Drive, Shelbyville County, Shelbyville, Indiana  
14123 Roth Road, Grabill, Indiana  
1890 Riverford Drive West, Huntington, Indiana

Dear Mr. Sharp:

The United States Environmental Protection Agency ("U.S. EPA" or the "Agency") has documented the release or threatened release of hazardous substances, pollutants and contaminants at the following properties: 501 Northridge Drive, Shelbyville, Indiana (the "Meridian-Shelbyville site"); 14123 Roth Road, Grabill, Indiana ("Meridian-Grabill site"); and 1890 Riverford Drive West, Huntington, Indiana ("Meridian-Huntington site"). By letter dated March 26, 2010, U.S. EPA previously advised you of what actions the Agency believed Escalade Avenue LLC ("Escalade"), as owner of the Meridian-Shelbyville site, should take to reduce the release or threat of release of hazardous substances there.

U.S. EPA is planning to spend public funds to control and investigate these releases. This action will be taken by U.S. EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) ("CERCLA"), unless U.S. EPA determines that such action will be done properly by a responsible party. Responsible parties under CERCLA include the current owner and operator, former owner and operator at the time of disposal, and persons who generated the hazardous substances or were involved in transport, treatment, or disposal of them at a site. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), where the Agency uses public funds to achieve the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the site, including investigation, planning and enforcement.

The actions U.S. EPA is currently planning to undertake are summarized in the Action Memoranda included with this notice. The response actions include, but are not limited to the following tasks at the Meridian-Shelbyville and Meridian-Grabill sites:

1. develop and implement site-specific health and safety plans, including air monitoring plans, and site emergency contingency plans;
2. develop and implement site security plans;
3. inventory and perform hazard characterization on substances contained in containers, drums, pits, waste piles, and/or tanks;
4. consolidate and package all hazardous substances, pollutants and contaminants for transportation and off-site disposal;
5. dismantle and decontaminate process equipment and building components associated with the product process area, as necessary;
6. transport and dispose all characterized or identified hazardous substances, pollutants, wastes, or contaminants to a RCRA/CERCLA-approved disposal facility in accordance with U.S. EPA's Off-Site Rule (40 C.F.R. § 300.440); and
7. take any other response actions to address any release or threatened release of a hazardous substance, pollutant or contaminant that the U.S. EPA On-Scene Coordinator determines may pose an imminent and substantial endangerment to the public health or the environment.

U.S. EPA has received information that Escalade may currently own the properties comprising these three sites. By this letter, U.S. EPA notifies Escalade of its potential liability with regard to this matter and encourages Escalade, as a potentially responsible party, to reimburse U.S. EPA for costs incurred to date and to voluntarily perform or finance the response activities that U.S. EPA has determined or will determine are required at these sites. U.S. EPA is willing to discuss with Escalade or its representative the entry of an appropriate administrative settlement agreement and order on consent ("consent order") under which Escalade would perform or finance response activities and reimburse U.S. EPA for its costs. If a consent order cannot be promptly concluded, U.S. EPA may issue a unilateral order under Section 106 of CERCLA, requiring Escalade to perform specified work. Under Sections 106 and 107 of CERCLA, Escalade may be liable for reimbursement of U.S. EPA's costs, for statutory penalties, and for treble damages for noncompliance with such an order. If Escalade is a qualified small business, enclosed is a U.S. EPA Small Business Regulatory Enforcement Fairness Act information sheet which may be helpful if Escalade is subject to a U.S. EPA enforcement action.

A conference call is currently scheduled among Escalade, U.S. EPA, the Indiana Department of Environmental Management and the City of Shelbyville at noon Eastern Time on

Wednesday, April 7, 2010. As a potentially responsible party, Escalade should notify U.S. EPA verbally before or during this conference call of its willingness to perform or finance the activities described above. Escalade should provide a written commitment to perform or finance the activities within two (2) days of any timely verbal commitment. If U.S. EPA does not receive a timely response, U.S. EPA will assume that Escalade does not wish to negotiate a resolution of its potential responsibility in connection with these sites and that it has declined any involvement in performing the response activities.

Escalade's verbal and written commitment should indicate the appropriate name, address, and telephone number for further contact. If Escalade is already involved in discussions with state or local authorities, engaged in voluntary cleanup action or involved in a lawsuit regarding these sites (or any of them), Escalade should continue such activities as it deems appropriate. This letter is not intended to advise Escalade or direct it to restrict or discontinue any such activities; however, Escalade is advised to report the status of those discussions or actions in its response to this letter and to provide a copy of its response to any other parties involved in those discussions or actions.

In addition, U.S. EPA is seeking to obtain certain other information from Escalade pursuant to U.S. EPA's authority under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), for the purpose of enforcing CERCLA and to assist in determining the need for response to a release of hazardous substance(s) under CERCLA. The Administrator of the U.S. EPA has the authority to require any person who has or may have information relevant to any of the following to furnish U.S. EPA with such information: (1) the identification, nature or quantity of materials which have been or are generated, treated, stored or disposed of at, or transported to, a facility; (2) the nature or extent of a release or threatened release of a hazardous substance, pollutant or contaminant at or from a facility; and (3) the ability of a person to pay for or perform a cleanup. Pursuant to Section 104(e) of CERCLA, you are hereby requested to submit the following information concerning the Shelbyville, Grabill and Huntington sites:

1. provide a copy of any Phase I Environmental Assessment Report prepared by Escalade, or by anyone on behalf of Escalade, prior to the purchase of the properties comprising the Meridian-Shelbyville, Meridian-Grabill and/or Meridian-Huntington sites;
2. provide copies of any other environmental assessment in Escalade's possession regarding the Meridian-Shelbyville, Meridian-Grabill and/or Meridian-Huntington sites;
3. provide copies of any contract(s) Escalade, or any other person associated with Escalade, has entered into for the sale, lease or rental of the Shelbyville, Grabill and/or Huntington sites, or any portion thereof;
4. provide copies of any contracts Escalade, or any other person associated with Escalade, has entered into for the sale, lease or rental of any equipment, materials,

product, or other personal property located at the Shelbyville, Grabill and/or Huntington sites;

5. provide copies of Escalade's Articles of Incorporation and By-Laws;
6. provide copies of Escalade's financial statements for the past five fiscal years, including, but not limited to those filed with the Internal Revenue Service and Securities and Exchange Commission;
7. identify all of Escalade's current assets and liabilities and the person or persons who currently own or are responsible for such assets and liabilities;
8. identify all liability insurance policies held by Escalade from 2005 to the present. In identifying such policies, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, nonsudden, or both types of accidents. In lieu of providing this information, Escalade may submit complete copies of all relevant insurance policies;
9. provide copies of all income tax returns sent by Escalade to the federal Internal Revenue Service in the last three years;
10. identify all persons having knowledge or information about the generation, transportation, treatment, disposal or other handling of waste materials, including waste materials containing hazardous substances, at or from the Meridian-Shelbyville, Meridian-Grabill and/or Meridian-Huntington sites;
11. provide copies of any business documents relating to the generation, storage, treatment and/or disposal of waste materials, including waste materials containing hazardous substances, at the Meridian-Shelbyville, Meridian-Grabill and/or Meridian-Huntington sites.

To assist Escalade in answering this request, the information sought pertains to any and all information in its possession, custody or control relating to the operation of the Meridian-Shelbyville, Meridian-Grabill and/or Meridian-Huntington sites, and to the generation, storage, treatment and/or disposal of hazardous substances at these sites.

For purposes of this information request, "waste materials" shall mean hazardous substances, solid wastes and hazardous wastes, and other materials which may or may not contain pollutants or contaminants, and shall include reclaimed and off-specification material of any kind.

This request is directed to Escalade, its officers, directors, and employees, and its subsidiaries, divisions, facilities and their officers, directors, and employees. The information sought herein must be sent to U.S. EPA within ten (10) calendar days of your receipt of this letter. Failure to respond fully and truthfully to this request, or to adequately justify any failure to respond, may result in an enforcement action against Escalade by U.S. EPA under Section 104 of CERCLA, as amended. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. Escalade may request however, that any such information be handled as confidential business information. A request for confidential treatment must be made when the information is provided, since any information not so identified will not be accorded this protection by the U.S. EPA. Information claimed as confidential will be handled in accordance with the provisions of 40 C.F.R. Part 2.

Any written statements submitted pursuant to this information request must be notarized and submitted under an authorized signature certifying that all information contained therein is true and accurate to the best of the signatory's knowledge and belief. Moreover, any documents submitted to U.S. EPA pursuant to this information request should be certified as true and authentic to the best of the signatory's knowledge and belief. Should the signatory find, at any time after the submittal of the requested information, that any portion of the submitted information is false, the signatory should so notify U.S. EPA. If any answer certified as true should be found to be untrue, the signatory can and may be prosecuted pursuant to 18 U.S.C. § 1001. The U.S. EPA has the authority to use the information requested herein in any administrative, civil or criminal action.

Your responses to both the notice of potential liability (verbally on or before April 7, 2010 and in writing on or before April 9, 2010) and the information requests (within ten (10) days of receipt of this request) should be sent to:

Mila V. Bensing  
Enforcement Specialist  
U.S. EPA - Region 5  
Emergency Enforcement Services Section SE-5J  
77 West Jackson Boulevard  
Chicago, Illinois 60604

with a copy to:

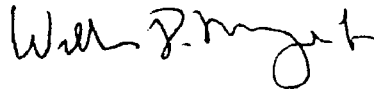
Jeff Cahn  
Associate Regional Counsel  
Office of Regional Counsel, MMII, Section 3 C-14J  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

If you need further information regarding this letter, you may contact Mrs. Bensing at

(312) 353-2006. Direct any legal questions to Mr. Cahn at (312) 886-6670 or [cahn.jeff@epa.gov](mailto:cahn.jeff@epa.gov).

Due to the nature of the problem at these sites and the attendant legal ramifications, U.S. EPA strongly encourages Escalade to submit a written response within the time frames specified herein. We hope you will give this matter your immediate attention.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Linda M. Nachowicz".

Linda M. Nachowicz, Chief  
Emergency Response Branch #2

Enclosures

## U.S. EPA SMALL BUSINESS RESOURCES

### Hotlines, Helplines & Clearinghouses

([www.epa.gov/epahome/hotline.htm](http://www.epa.gov/epahome/hotline.htm))

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. A few examples are listed below:

#### Clean Air Technology Center

([www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-541-0800)

#### Emergency Planning and Community Right-To-Know Act

([www.epa.gov/superfund/resources/infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346)

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.

([www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888)

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers ([www.epa.gov/clearinghouse](http://www.epa.gov/clearinghouse))

National Response Center to report oil and hazardous substance spills.

([www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802)

#### Pollution Prevention Information Clearinghouse

([www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or 1-202-566-0799)

#### Safe Drinking Water Hotline

([www.epa.gov/safewater/hotline/index.html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791)

#### Stratospheric Ozone Refrigerants Information

([www.epa.gov/ozone](http://www.epa.gov/ozone) or 1-800-296-1996)

Toxics Assistance Information Service also includes asbestos inquiries.

(1-202-554-1404)

#### Wetlands Helpline

([www.epa.gov/owow/wetlands/wetline.html](http://www.epa.gov/owow/wetlands/wetline.html) or 1-800-832-7828)

### State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or the following two resources:

#### EPA's Small Business Ombudsman

([www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888)

#### Small Business Environmental Homepage

([www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org) or 1-724-452-4722)

### Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated,

businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses:

#### The Small Business Compliance Policy

([www.epa.gov/compliance/incentives/smallbusiness](http://www.epa.gov/compliance/incentives/smallbusiness))

#### Audit Policy

([www.epa.gov/compliance/incentives/auditing](http://www.epa.gov/compliance/incentives/auditing))

### Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an SBA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees, or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

### Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*



United States  
Environmental Protection  
Agency

Office of Enforcement and Compliance Assurance (2201A)  
EPA 300-F-07-003 October 2007

## INFORMATION SHEET

### U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance resources such as workshops, training sessions, hotlines, websites, and guides to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

#### Compliance Assistance Centers

([www.assistancecenters.net](http://www.assistancecenters.net))

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers that provide information targeted to industries with many small businesses.

##### Agriculture

([www.epa.gov/agriculture](http://www.epa.gov/agriculture) or 1-888-663-2155)

##### Automotive Recycling Industry

([www.ecarcenter.org](http://www.ecarcenter.org))

##### Automotive Service and Repair

([www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK)

##### Chemical Industry

([www.chemalliance.org](http://www.chemalliance.org))

##### Construction Industry

([www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911)

##### Education

([www.campuserc.org](http://www.campuserc.org))

##### Healthcare Industry

([www.hercenter.org](http://www.hercenter.org) or 1-734-995-4911)

##### Metal Finishing

([www.nmfrc.org](http://www.nmfrc.org) or 1-734-995-4911)

##### Paints and Coatings

([www.paintcenter.org](http://www.paintcenter.org) or 1-734-995-4911)

##### Printed Wiring Board Manufacturing

([www.pwbrc.org](http://www.pwbrc.org) or 1-734-995-4911)

##### Printing

([www.pneac.org](http://www.pneac.org) or 1-888-USPNEAC)

##### Transportation Industry

([www.transource.org](http://www.transource.org))

##### Tribal Governments and Indian Country

([www.epa.gov/tribal/compliance](http://www.epa.gov/tribal/compliance) or 202-564-2516)

##### US Border Environmental Issues

([www.bordercenter.org](http://www.bordercenter.org) or 1-734-995-4911)

The Centers also provide State Resource Locators ([www.envcap.org/statetools/index.cfm](http://www.envcap.org/statetools/index.cfm)) for a wide range of topics to help you find important environmental compliance information specific to your state.

#### EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

##### EPA's Home Page

[www.epa.gov](http://www.epa.gov)

##### Small Business Gateway

[www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)

##### Compliance Assistance Home Page

[www.epa.gov/compliance/assistance](http://www.epa.gov/compliance/assistance)

##### Office of Enforcement and Compliance Assurance

[www.epa.gov/compliance](http://www.epa.gov/compliance)

##### Voluntary Partnership Programs

[www.epa.gov/partners](http://www.epa.gov/partners)

Office of Enforcement and Compliance Assurance: <http://www.epa.gov/compliance>



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